

OGC 72-1165

8 August 1972

MEMORANDUM FOR: Chief, Regulations Control Branch

SUBJECT : Revised Annex A [REDACTED]

1. Attached is a copy of a portion of the Federal Register issue of 3 August. It includes at page 15686 the CIA regulation which is Annex A [REDACTED]

2. I believe the legal technicalities concerning the revised Annex A for purposes of CIA publication are these. [REDACTED] was approved in June and [REDACTED] was effective on 30 June. It included an Annex A which in turn included a provision to the effect that Annex A would be effective upon its publication in the Federal Register. [REDACTED] including Annex A, as you know, was published and distributed within the Agency. I believe at that stage Annex A was effective as of 30 June as a directive binding on Agency employees. It was not effective as to the public since it had not been published as to the public. Annex A was revised effective 21 July and it was that revision, together with the memorandum approved by Mr. Colby to accomplish that revision, which I forwarded to you by memorandum of 24 July. It was this revision of Annex A which you were able to withdraw from publication when I called you early on 31 July. The regulation in the Federal Register of 3 August, by its terms, is effective on its publication in the Federal Register, namely, on 3 August. In view of all this, the document you will now publish as a revised Annex A is the regulation from page 15686 and it would be in order to mark each page "Annex A [REDACTED] Revised August 3, 1972".

3. I also forward for your retention the memorandum approved by Mr. Colby of 31 July, which, as you will see, also revoked the revision of 21 July. The original of the Annex A of 31 July was forwarded to the Federal Register on that date. A copy of my letter to the Federal Register is also attached hereto.-

(Sig [REDACTED])

Associate General Counsel

Attachments

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

31 July 1972

MEMORANDUM FOR: Mr. James Husted
Federal Register

Dear Mr. Husted:

I enclose the original of a regulation signed by the Executive Director of CIA on 31 July for publication in the Federal Register. It is to be published in the same issue of the Federal Register as are the other regulations forwarded to you by Mr. David Young of the White House last week. Both this regulation and those forwarded by Mr. Young implement E.O. 11652, each for a different agency. I also enclose two certified copies of our regulation.

The CIA regulation approved 21 July, which was forwarded to you by Mr. Young, is not to be published, since the regulation enclosed herewith supercedes that one. Please return to me at your convenience all copies of the 21 July regulation.

Please call me (IDS Code 143) if you have any questions or if we can provide any assistance.

Associate General Counsel

Enclosures

X1 OGC: sin

Original - Addressee

1 - SECURITY-E.O. 11652-Classification & Declassification (filed w/ OGC 72-1165)

X1 1 - signer

1 - Chrono

31 July 1972

MEMORANDUM FOR: Executive Director-Comptroller


SUBJECT : Revision of CIA Regulation for Federal Register

1. This memorandum contains a recommendation for approval of the Executive Director-Comptroller. Such recommendation is contained in paragraph 3.

2. Late Friday, we learned from the White House and the Federal Register that it is necessary for us to revise our regulation, which you had approved on 21 July, to accord with Federal Register style and format. Further, we are required to do this promptly since the Interagency Classification Review Committee proposes to publish in a single issue of the Federal Register the regulations of the various agencies under the Executive Order and Mr. Young hopes to accomplish this on Thursday, 3 August. We are committed to attempt to get the revised regulation to the Federal Register people by noon today.

3. Accordingly, we have revised the regulation solely for the purposes mentioned above. There is no change in substance. Your approval below on this memorandum and your signature on the attached regulation accordingly are recommended. Your approval of this memorandum also will revoke the regulation approved by you on 21 July.

4. For your information, the designation at the head of our regulation "32 CFR Chapter XIX — CENTRAL INTELLIGENCE AGENCY" means that Chapter XIX of Title 32 of the Code of Federal Regulations has been assigned to our regulation. Title 32 is entitled "National Defense" and includes the regulations of the Department of Defense, the military departments, and various other agencies with responsibilities for some aspect of defense.


LAWRENCE R. HOUSTON
General Counsel

Attachment

MEMORANDUM FOR: Executive Director-Comptroller

SUBJECT : Revision of CIA Regulation for Federal Register

APPROVED:



Executive Director-Comptroller

31 July 1972

Date

OGC: ☐:sin

Distribution:

Original - OGC - C/Regulations Control Branch w/OGC 72-1165

1 - ExDir

1 - ER

1 - OGC Subj; SECURITY-E.O. 11652-Classification & Declassification ✓

1 - ☐ signer

1 - Chrono

32 CFR Chapter XIX — CENTRAL INTELLIGENCE AGENCY

Part 1900 — PUBLIC ACCESS TO DOCUMENTS AND RECORDS
AND DECLASSIFICATION REQUESTS

The Central Intelligence Agency adopts the following rules of procedure for public access to the records of the Central Intelligence Agency and requests for classification review of classified information and material. This regulation implements requirements of the Freedom of Information Act, Executive Order 11652, and the National Security Council Directive of May 17, 1972.

Therefore, pursuant to the authority of the National Security Act of 1947, the Central Intelligence Agency Act of 1949, the Freedom of Information Act (5 U.S.C. 552), and Executive Order 11652, Title 32 is amended by establishing a new Chapter XIX and adding a new Part 1900, as set forth below.

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1900.3 Organization and Requests for Information.

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- 1900. 5 Requests for Documents or Classification Review.
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- 1900. 41 Suggestions and Complaints.

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AUTHORITY:

This Part 1900 is issued under the authority of the National Security Act of 1947, the Central Intelligence Agency Act of 1949, the Freedom of Information Act (5 U.S.C. 552), and Executive Order 11652.

GENERAL

SEC.

1900.1 Purpose.

This part implements the requirements of the Freedom of Information Act and Executive Order 11652, and establishes the rules of procedure with respect to public access to the records of the Central Intelligence Agency and requests for classification review of classified information and material.

1900.3 Organization and Requests for Information.

The headquarters of the Central Intelligence Agency is located in Fairfax County, Virginia. Functions are channeled and determined by regular chain-of-command procedures. Other than this part, there are no formal or informal procedural requirements regarding public access to Agency records. Requests for information and decisions and other submittals may be addressed to The Assistant to the Director, Central Intelligence Agency, Washington, D. C. 20505.

SEC.

1900.5 Requests for Documents or Classification Review.

(a) Any person may request that any identifiable records or documents be made available.

(b) Any person may request a classification review of records or documents which are classified under Executive Order 11652, or any predecessor Executive Order, and are more than ten (10) years old.

(c) Requests may be addressed to The Assistant to the Director, Central Intelligence Agency, Washington, D. C. 20505. Requests need not be made on any special form but may be by letter or other written communication setting forth the pertinent facts with sufficient particularity that the requested document or record can be located or identified with a reasonable amount of effort.

1900.7 Processing Requests.

(a) The Assistant to the Director shall promptly acknowledge receipt, in writing, and refer the request to the Agency component having responsibility for the records or matter involved (the responsible component).

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1900.7 (b) The responsible component shall undertake to locate or identify the document. If the request does not describe the document with sufficient particularity to permit it to be located or identified with reasonable effort, the responsible component shall so inform the Assistant to the Director. The Assistant to the Director will advise the requester that unless additional identifying information is furnished the request cannot be processed further. The requester may then resubmit his request, furnishing additional identifying information. Any resubmitted request also shall be processed in accordance with this regulation. If the responsible component determines that the request is unduly burdensome, it shall so inform the Assistant to the Director who thereupon shall ask the requester to limit his request to records that are reasonably obtainable.

(c) Upon locating a requested document or upon identifying it sufficiently to permit the making of the appropriate determinations under this section and section 1900.11, the

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1900.7 responsible component shall determine the date of origin of the document and whether the document is classified under E.O. 11652 or any predecessor Executive Order. If the component determines that the document is unclassified, the request shall be further processed as provided for in section 1900.21 of this part. Otherwise, it shall be processed as provided for in section 1900.11 of this part.

(d) If possible, action on each request referred to a responsible component under section 1900.7(a) shall be completed within thirty (30) days of receipt of the request by the Assistant to the Director. If action cannot be completed within thirty (30) days, the component shall so inform the Assistant to the Director and shall explain the reasons for further delay. The Assistant to the Director shall so advise the requester. If the requester does not receive a decision on his request within sixty (60) days, he may apply to the Central Intelligence Agency Information Review Committee,

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1900. 7 established pursuant to Section 7(B)(2) of E. O. 11652.
Any such application shall be processed as an appeal
as provided for in section 1900. 31 of this part.

REQUESTS INVOLVING CLASSIFIED DOCUMENTS

1900. 11 Action on Requests Involving Classified Documents.

(a) If the document is less than ten (10) years old,
the component shall so inform the Assistant to the Director,
who thereupon shall deny the request.

(b) If the document is between ten (10) and thirty (30)
years old, the component shall review the classification
and continue, modify, or remove the classification based
on the criteria set forth in Section 5(B) of E. O. 11652.

(1) If the component classifies the document, at
the original level of classification, or at another level,
it shall so advise the Assistant to the Director and, unless
it is not possible to do so, set a date on which the docu-
ment shall be declassified automatically. Also, if it is
possible to furnish the requester with a brief statement
as to why the document cannot be declassified, the

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1900.11 component shall furnish such a statement to the Assistant to the Director. The Assistant to the Director thereupon shall deny the request and transmit to the requester the statement furnished him.

(2) If the component declassifies the document, the request shall be further processed as provided for in section 1900.21 of this part.

(c) If the document is at least thirty (30) years old, the component shall forward the request, together with its recommendation for continuing, modifying, or removing the classification, to the Director of Central Intelligence for his personal action under Section 5(E) of E.O. 11652. The Director may continue, modify, or remove the classification. If the Director classifies the document at the original level of classification, or at another level, he also shall specify the reasons for continued classification and the period of time in which the document shall continue to be classified. The Director's decision shall be made known to the requester.

REQUESTS NOT INVOLVING CLASSIFIED DOCUMENTS

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1900.21 Action on Requests which do not Involve Classified Documents.

When a responsible component determines that a request refers to a document which is unclassified (section 1900.7(c)), or when the component declassifies a document under section 1900.11(b)(2) above, the component thereupon shall determine whether the document is exempt from public disclosure under any of clauses (2) through (9) of subsection 552(b), Title 5, United States Code. If the component determines that the document is exempt under any of such clauses, it shall also determine, on the basis of applicable law, regulations and policy, whether the document nevertheless shall be made available to the requester.

(a) If the component determines that the document is exempt and should not be made available, it shall so advise the Assistant to the Director, who thereupon shall deny the request.

(b) If the component determines that the document is not exempt or that it is exempt but nevertheless should be made available, it shall so advise the Assistant to the Director, who shall furnish the requester with a copy of the document or give him access to it.

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1900. 31 Appeal to CIA Information Review Committee.

(a) Notification of Right to Appeal. When the Assistant to the Director advises a requester that a request does not describe a document with sufficient particularity to permit it to be located with reasonable effort (section 1900. 7(b)), or when he denies a request pursuant to section 1900. 11(b)(1) or 1900. 21(a), he shall also advise the requester that he may appeal that decision to the Central Intelligence Agency Information Review Committee, established pursuant to Section 7(B)(2) of E. O. 11652.

(b) Procedures. Any requester, by letter or other written communication, may appeal to the Central Intelligence Agency Information Review Committee any decision conveyed to him under section 1900. 7(b), 1900. 11(b)(1), or 1900. 21(a), or apply to the Committee in accordance with section 1900. 7(d). The communication should (1) indicate the decision being appealed or, in the case of section 1900. 7(d) applications, the action sought, and (2) present any

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1900. 31 information or justification the requester may wish to submit. It should be addressed to that Committee, c/o The Assistant to the Director, Central Intelligence Agency, Washington, D. C. 20505. The Assistant to the Director shall forward the communication to the Committee for appropriate action under section 1900. 31(c).

(c) Committee Action on Appeals. Within thirty (30) days the Committee shall consider any appeals forwarded to it under section 1900. 31(b) and take such action thereon as it may deem appropriate, based on the criteria set forth in Section 5(B) of E.O. 11652 and on other applicable provisions of that Order and of applicable statutes and regulations. The Committee may affirm, overrule, or modify the appealed decision. The Assistant to the Director shall advise the requester of the decision of the Committee.

1900. 33 Appeal to Interagency Classification Review Committee.

Any request denied by the Director under section 1900. 11(c) and any appeal denied by the CIA Information Review Committee under section 1900. 31(c), other than a request

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1900. 33 originally denied under section 1900. 21(a), may be appealed to the Interagency Classification Review Committee, established pursuant to Section 7(A) of E.O. 11652. Whenever the Assistant to the Director informs a requester that his request or appeal has been so denied, he also shall advise the requester of his right to appeal to the Interagency Classification Review Committee.

SUGGESTIONS AND COMPLAINTS

1900. 41 Suggestions and Complaints.

Any person may direct any suggestion or complaint with respect to the Agency administration of the Executive Order and the implementing regulations, including those regarding overclassification, failure to declassify, or delay in declassifying, to the CIA Information Review Committee. The Committee shall consider and resolve all such suggestions and complaints.

FEES

1900. 51 Fees.

In accordance with Section 483a of Title 31 of the

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1900. 51 United States Code, fair and equitable fees may be charged in connection with any Agency action or service in response to a request under this regulation. Fees shall be based on the cost to the Government to conduct the necessary research and on the other standards prescribed in Section 483a. If a fee is to be charged, the requester shall be so informed by the Assistant to the Director and payment, or satisfactory assurances of payment, obtained from the requester before the action or service is undertaken. Payment shall be by check or postal money order made payable to the Treasurer of the United States.

Revocation. The CIA notice of July 21, 1967 (32 Fed. Reg. 140, July 21, 1967) is hereby revoked.

Effective Date. This amendment shall become effective on publication in the Federal Register.


Approved on July 31, 1972.

I certify this is a true copy:



Lawrence R. Houston

General Counsel


W. E. COLBY
Executive Director
Central Intelligence Agency

31 July 1972
Date